

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON WEDNESDAY, NOVEMBER 8, 2006.

Board Members Present:

John F. Coates, Chairman
Steven E. Nixon, Vice-Chairman
Larry W. Aylor
William C. Chase, Jr.
Sue D. Hansohn
Brad C. Rosenberger
Steven L. Walker

Staff Present:

Frank T. Bossio, County Administrator
J. David Maddox, County Attorney
Valerie H. Lamb, Finance Director
John C. Egertson, Planning Director
Paul Howard, Director of Environmental Services
Peggy S. Crane, Deputy Clerk

CALL TO ORDER

Mr. Coates, Chairman, called the meeting to order at 10:00 a.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mr. Aylor led the Board and the audience in the Pledge of Allegiance to the Flag.

RE: APPROVAL OF AGENDA - ADDITIONS AND/OR DELETIONS

Mr. Frank Bossio, County Administrator, asked that the following item be added to the **CLOSED SESSION**: D. Under *Virginia Code* §2.2-3711(A)(1), to consider evaluation of a specific County employee.

Mr. Bossio noted that a correction had been made in the evening portion of the October 3, 2006 minutes (page 6, last paragraph, second line) to read: "Lake Pelham" instead of "Mountain Run Lake".

Mrs. Hansohn asked that an item be included to discuss the personal property tax bills and the timing for mailing them.

Mr. Nixon moved, seconded by Mrs. Hansohn, to approve the agenda as amended.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

APPROVAL OF MINUTES

The minutes of the October 3, 2006 regular meetings were presented to the Board for approval.

Mr. Nixon moved, seconded by Mrs. Hansohn, to approve the minutes as corrected.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CONSENT AGENDA

Mr. Bossio reviewed the following Consent Agenda items with the Board:

- a. The Board will consider approving an appropriation of additional funding for the Sheriff's Office for Outside Jail Services in the amount of \$260,000 due to overpopulation at the current jail.
- b. The Board will consider approving a budget amendment for the Clerk of the Circuit Court for Technology Trust Funds in the amount of \$77,650. The funds will be used to purchase equipment related to indexing and microfilming.
- c. The Board will consider acceptance and appropriation of two grants for the Department of Emergency Services from the Department of Emergency Management from the State Homeland Security Program in the amounts of \$44,842 and \$27,082 for a grand total of \$71,924. The grant funding will be used to purchase 12 self-contained breathing apparatus, radio interoperability equipment and provide various types of training related to terrorism and incident command. No local match required.
- d. The Board will consider approving an appropriation of additional funding received for the Department of Emergency Services from the collection of FY05 fire and rescue tax in the amount of \$19,643.76. The funding will be used to purchase an ALS response vehicle.
- e. The Board will consider a motion to ratify the publication of notice of the Technology Zones Ordinance Policy.
- f. The Board will consider acceptance of a grant and appropriation for funds received from the grant for the Sheriff's Office from the U.S. Department of Justice for a Bulletproof Vest Partnership Program Grant in the amount of \$12,375. Local match of \$6,187.60 for FY 07 will come from the Sheriff's Office Operating budget.
- g. The Board will consider approving an application for a grant for the Sheriff's Office from the Department of Criminal Justice Services for a Criminal Justice Record System Improvement Grant in the amount of \$20,739. Local match is \$6,913 from the Sheriff's Operating budget. This grant will provide fingerprint services to all law enforcement

agencies within the County and enhance the Sheriff's Office current Records Management Systems.

h. The Board will consider approving a resolution to Authorize the Sale of Dog License Tags by Animal Shelter staff as Agents of the County Treasurer.

i. The Board will consider a Resolution Authorizing Signing of Documents in the Absence of the County Attorney.

Mr. Nixon moved, seconded by Mr. Aylor, to approve the Consent Agenda as presented.

Mr. Walker asked for confirmation that Item e. would ratify the notice for a public hearing of the Technology Zones Ordinance Policy that would be heard during the evening session as an addition to the public hearing on the Ordinance.

Mr. David Maddox, County Attorney, stated that the Rules Committee had recommended a public hearing notice be advertised on the Technology Zones ordinance and felt that the policy should be considered at the same public hearing.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

GENERAL COUNTY BUSINESS

FUNDING PLAN FOR NEW ELEMENTARY SCHOOL

Mr. Bossio informed the Board that Mr. Courtney Rogers of Davenport and Company would make a presentation concerning the remaining funding for the new elementary school.

Mr. Rogers reminded the Board that the County had two general government projects that would require financing over the next year: The new elementary school totaling \$14.9 million and the Galbreath-Marshall Building project estimated at \$2 million. He stated that a plan had been developed to finance the projects at the lowest cost possible, and the goal was to (1) take advantage of the County's existing strong credit ratings; (2) maximize the availability of below market rate for a State Literary Fund loan of \$7.5 million; and (3) develop a plan that would consider all of the County's capital needs. He noted that the Literary Fund rate was at 3 percent, but the index was readjusted last July and Culpeper County fell into the higher category at 4 percent.

Mr. Rogers stated that the plan for financing the new elementary school was to borrow \$7.5 million of Literary Loan Anticipation Notes with a permanent Literary Loan at a rate of 4 percent from the State when funds were available. He said it was important to get on the State's waiting list as soon as possible since it would take two to three years for the funds to become available. He noted that the balance of the approximate \$7.4 million needed for construction of the elementary school would be funded from available County funds. He said that the Galbreath-Marshall Building would require approximately \$2 million in long-term financing sometime in the spring when final numbers became available.

Mr. Rogers indicated that one of the key considerations was interest rates and while the Federal Government had increased taxable reinvestment rates, tax-exempt interest rates had not increased at the same pace. He said that once the money was borrowed, the County would be able to invest the money at a higher rate than the expected borrowing rate, and there would be no cost of carrying the loan prior to the funds actually being needed. He stated that another consideration was bank qualification since the IRS provided commercial banks with a tax incentive that loan funds to tax-exempt entities borrowing \$10 million or less in a calendar year. The banks pass that benefit on in the form of lower interest, called a bank qualified benefit. He noted that the current benefit to the County was estimated to be 50 to 60 basis points (50 basis points equal $\frac{1}{2}$ of one percent).

Mr. Rogers outlined the County's strategy to borrow the maximum amount possible as bank qualified financing prior to the end of calendar year 2006, which was approximately \$7.26 million. He explained the reason for the odd number was because the Board had allowed one of the Fire and Rescue Departments to borrow \$2.5 million that used part of the County's bank qualification, and a small loan the Sheriff's Office used to purchase some vehicles also counted against the County. He said that the balance of approximately \$250,000 would be borrowed from the Literary Fund, along with the monies needed for the Galbreath-Marshall Building, in calendar year 2007. He stated these funds, more than likely, would not be bank qualified, but that would depend upon the timing of the jail project and also any utility needs to be incurred during calendar year 2007.

Mr. Rogers reported that the next steps to be taken, with Board approval, would be to solicit competitive bids from local and regional banking institutions. He said he planned to report the results of the RFP process to the Board on December 5, and recommend a

provider to use. He said at that time, he would ask for approval of a resolution to approve financing, which would be developed in coordination with the Bond Counsel. He stated that the IDA of the Town would need to be convened prior to closing because the financing would be a bond anticipation note, and he would coordinate meeting dates with the IDA. He stressed that the key piece of the entire process was to ensure that the School Board submitted an application to the State for the Literary Fund Loan because the State required the application to be received and preliminarily approved before construction on the project was bid out. He noted that if the application were not received in a timely fashion, the project would have to be funded with long-term financing at higher than 4 percent.

Mr. Nixon asked how soon would the Literary Loan application have to be submitted. Mr. Rogers replied that it had to be in before the School Board actually advertised an RFP for the project. Mr. Nixon asked whether there would be any advantage in submitting the application now. Mr. Rogers replied that it could be submitted now, and he had already had discussions with the County Finance Director and she has been in touch with the Schools to make sure they would proceed in timely fashion. He said that the State was aware of the County's plans, but a formal application needed to be made.

Mr. Nixon encouraged Mr. Rogers to proceed as soon as possible. Mr. Rogers agreed to do so. He said that part of the process was to submit actual plans before approval could be given by the State Department of Education to place the County on the waiting list.

Mr. Coates inquired what would have occurred if the Board had not endorsed the local fire department's \$2.5 million loan. Mr. Rogers replied that department could not have borrowed the money and would have had to raise the funds in cash. He added that if the Board had endorsed the loan without permission to use the County's bank qualified rate, the loan would still have counted against the County limit. Mr. Coates asked what types of projects were covered as bank qualified. Mr. Rogers explained it was a complicated process in terms of what counted and what did not count against a local government, and he always consulted with Bond Counsel whenever that question was raised.

Mr. Walker noted the County would be utilizing the Town's IDA and asked if the County created its own IDA, would each IDA have separate \$10 million bank qualified. Mr.

Rogers stated he could not give a definite answer, but believed each would have \$10 million bank qualified since they would be two separate entities.

Mr. Bossio stated that the Town's IDA would not be affected if the County's borrowing was approved before the end of this year, but the Town would have its own projects to be funded next year, such as water and sewer projects. He said that if the request was not submitted before the end of the year, the County would have to create its own IDA and appoint members and, according to the Bond Counsel, they would be two separate entities with separate bank qualified.

Mr. Walker asked for clarification regarding the Literary Loan Fund index and locked in percentage rates. Mr. Rogers explained that the index was based on separate percentages of assessed values, sales tax, and wealth of the County, and the formula was reset every two years. He said the rate was actually a four-digit decimal, and the County rate was rounded to 3.9 percent last year and had been increased and rounded to 4 percent as of July 1, 2007.

Mr. Walker asked with regard to the taxable and tax-exempt interest rates whether that was the arbitrated rule. Mr. Rogers replied that if the funds met certain IRS guidelines and was spent quickly enough, the County could keep all of the arbitrage; if not, the County would have to pay back what it should not have gained. Mr. Walker asked whether the rule was still for three years. Mr. Rogers replied that was a separate rule that stipulated if the money had not been spent within a three-year time period, the investment would be fixed at no more than the borrowing rate, but arbitrage could still be earned within that three-year period.

Mr. Nixon asked whether any interest earned by investing the money, over the interest rate paid for loan, could be reinvested in the project to make up the \$250,000 shortage. Mr. Rogers replied that any excess interest earned could be used to make up some of that difference, but the excess interest would have to be paid back if the spend-down rules were not met or if the funds were not spent quickly enough within a three-year period. He said the spend-down rules stipulated that 10 percent had to be spent in six months, 45 percent in 12 months, 75 percent in 18 months, 95 percent within 24 months, and the remaining 5 percent in the final third year. He stated that he would work with the

Schools Finance Department to ensure that schedule was met and the bond money was spent first to save County funds.

Mr. Walker asked how funding for the jail would affect the financial picture after having spent the large amount needed for the Schools. Mr. Rogers replied that he did not have an answer at the present time, but he would be in discussions with County staff in the next 60 days as the budget was being prepared.

Mr. Bossio added that the favorability piece would be determined by how the State treated the application as it moved forward. He said there was a meeting in Richmond on November 14-15 to address the application and the amount of reimbursement anticipated from the State. He said that the State reimbursement would have an impact because the funding for the jail would be paid up front, with the State reimbursing the County after the fact.

Mr. Rogers indicated that jail projects were some of the hardest to structure because of State limitations imposed on localities. He said the State would reimburse the County when the project was finished and the State would also reimburse some of the interest earnings on the interim note.

Mr. Coates thanked Mr. Rogers for his presentation.

No action was required.

BLUEPRINT FOR REGIONAL SOIL AND WATER CONSERVATION PRESENTATION

Mr. Greg Wichelns, Culpeper Soil and Water Conservation District (SWCD), thanked the Board for the opportunity to present the "Blueprint for Regional Soil and Water Conservation". He also thanked the Board for the financial support the SWCD received from the County and for the strong working relationship with the Planning staff. He acknowledged the presence of Mr. Carl Schmitt, the Chair of the District's Policy Committee.

Mr. Wichelns provided background information on the genesis of the Blueprint which began approximately two years ago with a strategic plan to address measures the five counties in the District could take to protect their soil and water. He stated the Blueprint covered a brief overview of government functions, such as the Comprehensive Plan and its role as an educational tool, and included sections on land conservation, managing the impact of land disturbance, avoiding impacts of land conversion and preserving certain

areas, managing the impact of development and preserving some of the intrinsic resource values that a county had, and measures to take to improve what already existed. He stated that because Culpeper was one of the fastest growing counties, most of the topics would have more relevance in Culpeper than some of the other counties. The general theme of the document was to use the Blueprint and try to integrate it into how a local government does business. He said that some of the SWCD's traditional roles dealt with Best Management Practices and site plan reviews, but he hoped that some of the less traditional roles would be moved forward into a more tightly integrated system of how local government operated within the world of land and resource conservation. He said that the SWCD would be producing Volume II of the Blueprint that would include case studies and example ordinances to assist local Planning staffs and show the experience of other localities or regions in these areas.

Mr. Wichelns listed the following issues that were important to Culpeper County:

1. With increasing land disturbance as a result of the increase in growth, it is important to keep abreast of what that workload analysis looks like for County staff because it changes rapidly.
2. There will be many opportunities or applications for rezonings within Culpeper County to accommodate some of the commercial aspects of development and there will be opportunities to try to leverage some of the items contained the Blueprint.
3. The SWCD encourages conservation and conservation planning in nutrient management planning on County-owned lands, school properties, park properties, etc., and the District would be available to assist in this endeavor.
4. It is important that the County implement the Blueprint's ingredients to move forward and to leverage dollars from the State or other sources for grants, such as the water quality improvement grant the County received from the State for stormwater management.

Mr. Wichelns asked for the Board's input on the Blueprint and to submit any elements important to Culpeper County that may have been overlooked in the document.

Mr. Chase questioned the State's permitting forestry clear-cutting versus selective cutting and expressed his concern that there would eventually be no hardwoods remaining in Virginia. Mr. Wichelns replied that clear-cutting was also a concern of his, and the SWCD was constantly questioning the State's forestry regulations. He said that clear-cutting from

an erosion and sediment control perspective was not as bad as the pollution that resulted when the land clearers came in after the forestry removal. He added that his office worked closely with the Forestry Department regarding anticipated timber harvesting on land that was not scheduled to be managed in a subcultural management plan in order to follow up with affected landowners.

Mrs. Hansohn asked whether the SWCD staff made recommendations and followed up on those recommendations when reviewing site plans for erosion sediment control. Mr. Wichelns replied that any recommendations made in their comment letter would require a resubmission of the site plan, and his office would review the revised site plan to determine whether those recommendations had been addressed.

Mr. Walker raised the Three Flags development and asked whether there were aspects of Phase II that should be considered in line with the Blueprint just discussed. Mr. Wichelns replied that there were certain aspects of the Blueprint that were important, primarily, the soil and water management and the managing the temporal effects of land disturbance, but was less in tune with maintaining the existing hydrology of the land. He added that would be considered as County staff moved through the development of the stormwater ordinance in the next 12 months.

Mr. Walker asked Mr. Wichelns whether he made presentations to the Schools on issues covered by the Blueprint. He stated that a sixth grade science teacher had asked him about watersheds, and he was curious whether the SWCD was providing information and education to the School System. Mr. Wichelns replied that was being done. He related details of a recent grant that created a six-week watershed curricula for the sixth grade science teachers at the Middle School that included classroom study and field trips. He said he would be glad to offer assistance, and Mr. Walker agreed to have the teacher contact Mr. Wichelns.

Mr. Nixon asked for information on the State's stormwater prevention and control plan and whether it included a land disturbance permit. Mr. Wichelns replied that there was a General Construction Permit required under Phase Two of the Virginia Pollution Elimination Discharge System and was administered by DCR. He said that the Commonwealth was raising the bar on stormwater regulations, and he had been told that the SWCD should be requiring the measure of those on site plans. He said that ultimately

these regulations would be presented to the localities, and the localities would be offered the opportunity to charge fees to operate the program.

Mr. Nixon asked whether the State Water Control Board had completed its regulations on the TMDL's. Mr. Wichelns replied that there was a study on TMDL's, but there had been no mandated implementation of the project. He said funding was available for implementation planning through the Commonwealth, and to leverage those funds would required a buy-in from all the major players; i.e., the County, the Town, the Health Department, and the SWCD. Once implementation planning has been completed, there were substantial funds available, including staff dollars. Mr. Nixon asked if that might come to Culpeper. Mr. Wichelns replied it was his understanding that Mountain Run had been recommended several years ago, but all the parties did not agree to proceed.

Mr. Coates inquired when Volume II of the Blueprint would be completed. Mr. Wichelns replied it would probably be ready by September since most of the work had been completed.

Mr. Coates thanked Mr. Wichelns for his presentation.

No action was required.

Mr. Coates recessed the meeting at 11:00 a.m.

Mr. Coates called the meeting back to order at 11:10 a.m.

**CONSIDERATION OF AMENDMENTS TO ARTICLES OF FORMATION AND BYLAWS
FOR CULPEPER CABLE COMMISSION**

Mr. Blynn Cascadden, Chairman, Culpeper Cable Commission, asked the Board for approval of the amendments to Articles of Formation and Bylaws for the Culpeper Cable Commission, specifically Article 3, Membership/Appointment, Sections 2, 3 and 4, which referenced the deletion of membership of the Culpeper Regional Hospital and the addition of a member from the Board of Supervisors and a member from the Town Council.

Mr. Walker said he understood why the hospital was being deleted since it was no longer a funding member, but asked why a Board member and a Council member were being added. Mr. Cascadden replied that the amendment had been suggested by the Board of Supervisors.

Mr. Nixon moved, seconded by Mr. Chase, to approve the amendments to the Articles of Formation and Bylaws for the Culpeper Cable Commission.

Mr. Walker stated he would not support the motion because he felt that adding a Council member and a Supervisor would negate the separation that was originally established with the Cable Commission. He said the Cable Commission should be able to make decisions without direct input from either political body.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger

Nay - Walker

Motion carried 6 to 1.

CONSIDERATION OF APPLICATION FOR VDOT 2006-2007 REVENUE SHARING FUNDS

Mr. John C. Egertson, Planning Director, recalled that the County had participated in revenue sharing with VDOT for years and, in the past, the maximum amount had historically been \$500,000 from the State; with a County match of \$500,000, the County received a total of \$1 million per year. He said that the amount had been increased last year to the maximum amount of \$1 million, and the County applied for the maximum and received a majority of what was requested. He indicated that the program had changed this year, and there was only \$15 million available for the entire State. He said that VDOT was setting up the program so that projects would fall into four tiers, funding tier one projects first. He explained that a tier one project was one which the locality offered more than just an equal match in return for VDOT funds, and he would propose that the Board submit such a proposal this year.

Mr. Egertson stated that during the budget process last year, a total of \$3 million was budgeted toward the 522/729 Connector Road or Western Outer Loop, and \$2 million of that was anticipated to be local funds with \$1 million coming from the revenue sharing program. He noted this year the Board could submit a tier one project, offering \$2 million in local funds to be matched with \$1 million from VDOT and still stay within the budget because of the way the Board budgeted. He believed the County would have a high likelihood of success with an offer of a two-to-one match.

Mr. Egertson called the Board's attention to the guidelines for the program this year and the completed application, which had been included in the Board materials. He said if the Board approved the application as proposed, the County would allocate \$2 million in

local funds, request the maximum \$1 million from VDOT, and all but \$150,000 of that \$3 million would go toward the Western Outer Loop project. He said the \$150,000 would be utilized to fund a shortfall on an existing revenue sharing project at Routes 299/685, which had encountered extra expenses in terms of right-of-way and utilities and had metamorphed itself from a simple turn-lane project to a curb and gutter project with signaling.

Mr. Coates asked whether the entire \$150,000 would be needed for the curb and gutter project since construction had slowed and costs possibly decreasing. Mr. Egertson replied that he had not studied the project in great detail, and no funding had been applied to the project since the small amount with the original application. Mr. Coates asked whether the traffic signal would be paid with County funds or the District's traffic signal money. Mr. Egertson replied he understood the cost would come out of County funds. Mr. Coates stated he felt that VDOT should pay for the traffic signals, and Mr. Egertson agreed to discuss that matter with VDOT.

Mr. Chase asked about the Town's involvement with the outer loop road. Mr. Egertson stated that the Town had been closely involved with discussions regarding the alignment, etc., and they obtained revenue sharing for the first time last year when revenue sharing was made available to towns. He said the Town revenue sharing would cover its portion inside the Town, but not any portion in the County.

Mrs. Hansohn moved, seconded by Mr. Nixon, to move forward with the recommendation of staff and seek revenue sharing money.

Mr. Coates mentioned again that Mr. Egertson should explore funding from VDOT for the signal because if the County could save \$150,000, that amount could be returned to the Western Loop project. Mr. Egertson agreed to discuss funding with Mr. Donald Gore, VDOT's Culpeper Residency Administrator.

Mr. Nixon asked whether the County had actually asked the Town to contribute toward the Western Loop portion outside the Town limits. Mr. Egertson replied that he did not believe the Town has been approached regarding contributing to the portion outside the Town. Mr. Nixon suggested that the Town should be asked to make a monetary contribution because another million or two would certainly help to move the project forward. Mr. Egertson agreed that additional funds would be useful for the approximately \$8 million project. He said the County had \$2 million set aside and, if successful with the

application being proposed, that amount would be close to \$4.8 million. He said that 70 percent of the total cost would be needed before the actual construction could begin.

Mr. Chase agreed that asking the Town to contribute was a good idea because the entire road would benefit the Town. He suggested that a formal letter be sent from the Board Chairman to the Town requesting additional money for the project.

Mr. Coates stated it should be pointed out that the Town could apply for additional revenue sharing money. Mr. Egertson noted that VDOT had indicated that any funds the Town received through revenue sharing would have to be spent on a portion of the road inside the Town.

Mr. Walker felt that the Town would be interested in contributing because in a recent visioning forum that he and Mr. Nixon attended, approximately 80 percent of both Town and County residents were in favor of the Western bypass.

Mr. Nixon asked whether the motion on the floor should be amended or would separate motions be more appropriate. Mr. Coates felt the Board should have separate motions.

Mr. Coates called for voice vote on the motion to apply for revenue sharing money.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Nixon moved, seconded by Mr. Walker, to send a letter under the Chairman's signature to the Town requesting an amount of funding to expedite the process and move the loop road forward.

Mr. Nixon suggested that Mr. Egertson talk with Mr. Gore to find out exactly the amount needed so the Town would have a benchmark on which to base a decision. Mr. Egertson stated that the only caveat to that request would depend upon how much the County received in the upcoming round of revenue sharing. Mr. Nixon suggested that it would be helpful to provide the Town with a suggested range of funds.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CONSIDERATION OF PUMP AND HAUL REQUEST FROM THE KNIGHTS OF COLUMBUS

Mr. Egertson informed the Board that Mr. Joseph Kratochvil had contacted him about the failing septic system on the property located at 21125 Kettle Club Road. The Health Department had reviewed the site and found that there was no alternative or pretreatment system that would suit their needs, so the Knights of Columbus was requesting a pump and haul permit. He said that such a permit would require the Board's endorsement before the Health Department would issue a permit. He explained that the pump and haul agreement required the Knights of Columbus to identify the hauler and to carry adequate insurance. He noted that the agreement was typical of the pump and hauls considered by the Board in the past where there was an existing building and a failing septic.

Mr. Chase moved, seconded by Mr. Walker, to approve the request.

Mr. Coates asked whether it would be appropriate to place a time limit on the permit in order to allow for further review at a later time. He said he did not oppose the request, but a time limit would provide the applicant with an opportunity to try to acquire some land or an easement from a neighbor for a new drainfield. Mr. Egertson agreed that a time limit could be placed on the agreement signed by the County.

Mr. Chase amended his motion and added a two-year limit. Mr. Walker agreed to the amendment.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CONSIDERATION OF REQUEST FROM THE CULPEPER AIRPORT FOR LOAN TO PURCHASE NEW AVGAS TRUCK

Mr. Bossio informed the Board that the Culpeper Airport wished to borrow money from the General Fund to purchase a new AVGAS truck and asked for the Board's permission to issue an RFP. He said the Airport currently had a lease on a gas truck with an approximate capacity of 600 gallons, at a cost of \$495 a month. In addition, a large amount of money had been spent on an emergency basis since 2002 to keep the truck in operation because any downtime resulted in loss of revenue. He noted that the Airport had increased its sale of fuel considerably in the last four to five years, and Jet A fuel had also increased. He explained that with the renewed interest in the Airport, the new runway and

the other new facilities, it would be prudent to purchase the truck as opposed to leasing. He asked for the Board's permission to go out for bid on a new truck.

Mr. Chase moved, seconded by Mr. Aylor, to approve issuing an RFP for bids for a new Avgas truck.

Mr. Coates stated he was not opposed to the request, but wondered why the Airport had been responsible for maintenance on the leased truck. Mr. Bossio replied that maintenance of that vehicle had been included in an old lease many years ago. He noted that the Airport would be responsible for maintenance on the new truck. In addition, he said they wanted to change from a 600-gallon capacity to a 1,000-gallon truck, which would provide savings when purchasing fuel at lower rates and save trips back and forth to purchase the fuel.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CONSIDERATION OF REIMBURSEMENT RESOLUTION FOR THE CONSTRUCTION OF A NEW JAIL

Mr. Bossio informed the Board that a resolution for construction of a new jail was before the Board for its consideration.

Mr. Maddox explained there has been ongoing long-term planning for a new jail, and part of the process involved approval by the Department of Corrections if the County wished to be reimbursed. He stated there were two statutes: One for renovation of jails involving three or more jurisdictions; and the other for a single jurisdiction to ask for reimbursement up to 25 percent of the cost of construction. He said the resolution was necessary in order for the County to pursue reimbursement.

Mr. Nixon asked whether the 25 percent reimbursement was just for construction costs, and not the land. Mr. Bossio replied that reimbursement was for construction costs only.

Mr. Nixon moved, seconded by Mrs. Hansohn, to approve the reimbursement resolution.

Mr. Walker inquired whether all possibilities of building a regional jail had been exhausted. Mr. Bossio replied that documentation was required to prove that the County

had asked other counties to join with Culpeper to build a new jail, and replies were received from several localities stating they were not interested because they had either made plans to join with other localities or were already participating in a regional jail program. He stated that the County was also required to obtain letters from each of the regional jails indicating there was no extra capacity for Culpeper to house inmates. He said those letters had been submitted as part of the application.

Mr. Coates asked whether the consultants were still working with County staff. Mr. Bossio replied that the consultants were preparing the paperwork and would guide staff through the process, as well as attending the meeting on November 14-15. He said he was unable to attend that meeting, but Mr. Andrew Larson, Director of Criminal Justice Services, and individuals from the Sheriff's Office would be going. He anticipated that the application would move forward without any problems, but felt that it was good to have County staff in attendance to indicate interest and answer any questions.

Mr. Coates suggested someone from the Public Safety Committee should attend the meeting to indicate the County's commitment for a new jail. Mr. Nixon stated he would be glad to attend the meeting if the Board wished him to do so.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

DISCUSSION OF PERSONAL PROPERTY TAX BILLS AND TIMING FOR MAILING

Mrs. Hansohn explained that she asked that this item be added to the agenda because she had been receiving calls from citizens who did not understand their tax bills or why they were so high, and she was sure that other Board members had received similar calls. She said another reason to have a discussion was that several callers had suggested that consideration be given to changing the date of collection from December to another timeframe and pay either one time a year or perhaps twice a year. She pointed out that tax payments were due during the holiday season and it was difficult for some people to pay at that time. She requested that the matter be sent to the Rules Committee for review and recommendation regarding another timeframe for the tax bills to be paid.

Mrs. Hansohn stated she felt the Board needed to obtain a further explanation as to why the tax bills were so high. She acknowledged that the Board raised the personal property tax this year by \$1, but the State changed its incentives and cut the County from 70 percent to 38

percent car tax relief. She felt that the way property was being assessed had changed and the Board needed additional information.

Mr. Nixon suggested that the Board request Mrs. Terry Yowell, Commissioner of the Revenue, to come before the Board and explain how she was actually doing the evaluations. Mr. Chase stated he had asked Mrs. Yowell to come to the meeting today, but she said she was too busy. Mr. Coates said he also talked with Mrs. Yowell this morning, and she indicated she was short-handed and she would be glad to come over later in the afternoon. He suggested also that this issue be sent to the Rules Committee since they would be meeting next week. Mr. Nixon agreed that the issue should be sent to the Rules Committee for discussion.

Mr. Chase related a conversation he had with one of his constituents who was upset because his three-year old truck has increased in value by \$165. He said that he had wanted to talk with the Commissioner of the Revenue to determine how he should answer these types of inquiries. He said he also had questions about the assessed value which had increased from 60 percent to 100 percent. Mrs. Hansohn stated she was hearing the same things from her constituents. Mr. Chase said he would like to see something in writing from the State in order to understand and answer some of the questions being asked.

Mr. Rosenberger commented that he was receiving similar calls. He said the Board raised the personal property tax from \$2.50 to \$3.50 to alleviate some of the burden on real estate taxes, but the confusion was in the change in evaluating the vehicles at 60 percent to assessing them at 100 percent of value. He said he did not realize that would occur when the Board was discussing the \$1 increase in personal property tax.

Mr. Chase expressed his concern that when individuals called the Commissioner of the Revenue's Office for an explanation, no explanation was given. He said they were told that the Board of Supervisors was responsible and to call the appropriate Supervisor from their District. He did not think that was an appropriate response.

Mrs. Hansohn agreed with Mr. Chase. She said she called the Commissioner's office yesterday in regard to assessments on older cars, and at the end of the conversation, she was told that she could thank the Board of Supervisors and the State for their higher taxes. She felt that statement was inappropriate and unprofessional, and she let the employee know that as a Supervisor she had no problem in answering questions.

Mrs. Hansohn added that she believed the Board needed to look at changing the tax due date because it did cause hardships for some people to pay in December. She said she would not attend the Rules Committee since she was not a member and would not be allowed to speak.

Mr. Rosenberger agreed that consideration should be given to the timing of the tax bills because he had also received some messages along those lines, but in order to stay on the calendar year schedule, taxes would need to be collected in December. He said he had no problems if the taxpayers wanted to pay twice a year, but from a business perspective, he would not pay his tax bill in advance because he liked to manage his money and collect interest for the entire year.

Mr. Walker stated as Chairman of the Rules Committee, he would have no problem with discussing the issue. He pointed out that any individual had the option to prepay any or all of his/her taxes in full at any time.

Mr. Rosenberger stated that consideration should be given to how much the increased costs would be to bill twice a year. He believed the Board had reviewed this once before.

Mr. Coates stated that the issue would be sent to the Rules Committee. He added that he felt the Commissioner of the Revenue's office had the same responsibility as the Board in responding to the citizens and, if that meant the Board would need to provide funds for an additional position, he would agree to do so.

NEW BUSINESS

COMMITTEE REPORTS

RULES COMMITTEE REPORT – OCTOBER 17, 2006

Mr. Walker reported that the Rules Committee met and was forwarding the following recommendations to the full Board:

1. Recommending to reappropriate the funding to the Buildings & Grounds line items for reimbursement of the renovations to the Dental Clinic and the Health Department in the amount of \$23,536.75;
2. Recommending to accept the proposed changes as presented by staff to the Rules of Procedure and to authorize the language change to Letter O; and

3. Recommending to accept the proposed change and adopt the amended Technology Zones Policy.

Mr. Walker explained that the first recommendation was regarding the Health Department's request to reappropriate \$23,538.75 to the Buildings and Grounds line items for reimbursement of renovations to the dental clinic and making additional space available in the Health Department.

Mr. Walker moved, and Mr. Nixon seconded, to reappropriate \$23,536.75 to the Buildings and Grounds line items for reimbursement for renovations made to the dental clinic and additional Health Department space.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Walker reported that the second item from the Rules Committee was to accept the recommendations of the County Attorney in regard to the Board's Rules of Procedure.

Mr. Walker moved, seconded by Mr. Nixon to accept the recommendations of the County Attorney to amend the Rules of Procedure.

Mr. Maddox stated there were several technical changes, but the major changes were:

a. Under IV. Conduct of Business, item O on page 9, which stipulates that when an applicant's application was referred by the Planning Commission to the Board, the applicant, or his representative who could answer the Board's questions, failed to appear, the Board may consider that absence to be a request for tabling the matter.

Mr. Maddox explained that the identical rules were being considered by the Planning Commission for inclusion in its Rules of Procedure. He noted that this rule would be placed on all applications for rezoning, special use permits, or other applications requiring the Board's approval so the applicant would be aware in advance of this rule.

b. Under VI. Board and Other Committees; Appointment, item 6-1, Board Committees, page 11, clarifies that the Legislative Committee was a committee of the whole in which all Board members may participate in or discuss matters before that Committee; and item B, page 12, makes the point for most of the committees that have three Board members appointed, that Board members may attend but not participate in the discussion of the

Committee's business or vote unless sitting as an alternate for an absent Committee member.

Mr. Maddox explained that a committee with three Board members was not a majority of the Board so any action taken was not an action by the Board. He said that the Virginia Council on the Freedom of Information Act suggested that this change be made. He added that any Board member may attend, but not participate in discussions because it would be interpreted as having four Board members, or a majority, participating.

Mrs. Hansohn asked whether the proposed rule meant that when a Board member was sitting in the audience and was asked for his/her opinion, the Board member could not reply. Mr. Maddox replied that it was his recommendation that the Board member not speak, but the Board member could announce that he/she was not attending as a Board member, but as a citizen, and reply to any questions. He felt that the Board member would be running a risk that was not worth taking.

Mrs. Hansohn stated she did not agree with the proposed change because the Board member sitting in the audience was not voting nor participating. She felt the Board member might have information that would be of assistance to the committee during discussions. She said she would not support the change.

Mr. Maddox said he agreed with Mrs. Hansohn in terms of the substantive benefit of having the participation by a Board member in the audience, and the recommendation he received from the FOIA Committee was not the law, but there was a legitimate concern that the Board ran the risk of a potential challenge under FOIA since a public record was being made of those proceedings.

Mrs. Hansohn pointed out that frequently there was information that could be brought forward at the committee level that would assist and avoid the Board from sending something back to the committee because new information had come forward.

Mr. Maddox agreed that everything Mrs. Hansohn said was correct, but he reiterated that this was a recommendation he received from the FOIA Committee that was charged with reviewing these issues.

Mr. Chase agreed with Mrs. Hansohn that the policy change did not make any sense. He said as Chair of the Animal Advisory Committee, he welcomed any Supervisor who wanted to participate. He pointed out that the press was welcome because all items

could be discussed in a public forum.

Mr. Walker offered clarification by stating that the change was being made in the Rules to document that no more than three Board members on Committees were participating in accordance with FOIA regulations. He pointed out that a Committee could take a break in order to obtain audience participation. He said as the current rule was written, it was in violation of FOIA and the Rules Committee was recommending the change in order to comply with FOIA.

Mr. Maddox stated that In light of the comments that had been made, he felt a distinction needed to be made between a seven-person body and when four or more were participating, and maybe the rule needed to be revised. He explained that when a committee was meeting with one or two appointed Board members and another Board member attended, there would be no problem, but if a committee had three appointed members and another member came in, there would be a problem. He said the proposed change to the Rules of Procedure was a recommendation from the FOIA Council for consideration.

Mr. Rosenberger suggested that a notation be placed on the applications for subdivision, rezoning, etc., and have them signed by the applicants or their representatives that they would be waiving their statutory rights if they are were not present. Mr. Walker pointed out that was the exact proposal before the Planning Commission at the present time. Mr. Egertson added that the Planning Commission would hopefully adopt their Rules of Procedure at its meeting next week and, at that point, the statement would be put on all application forms.

Mr. Nixon stated there had been a lot of discussion with regard to nonparticipating members at committee meetings and he understood Mrs. Hansohn's and Mr. Chase's concerns, but if the Board wanted to be as legally correct as possible, it would be prudent to have the Rules of Procedure reflect the proper procedures. He did not believe that the rule would preclude a member of a committee asking a member in the audience a specific question, nor did it preclude the committee chair from taking a break to discuss a particular issue. He said he would second the motion.

Mr. Coates asked that Mr. Walker restate the motion.

Mr. Walker said his motion was to accept the recommendations of the County

Attorney to amend the Rules of Procedure.

Mr. Rosenberger stated that he agreed with Mrs. Hansohn's comments, but the Board was under a legal obligation to notify the press anytime more than two members of the Board got together, and there were three Board members on committees. He said he did not understand why there was a problem since the press was notified.

Mr. Maddox pointed out that the distinction was that notice must be given when four or more Board members meet.

Mrs. Hansohn expressed her concern that when the School Interaction Committee meets, and School Board members and County Board members attend, they could not speak, but the press was always calling for cooperation among the various governmental bodies.

Mr. Coates called for voice vote.

Ayes - Aylor, Coates, Nixon, Rosenberger, Walker

Nays - Chase, Hansohn

Motion carried 5 to 2.

Mr. Walker announced that the third item on moving the Technology Zone policy forward to public hearing had been acted upon earlier under the Consent Agenda.

See Attachment #1 for details of meeting.

BUILDINGS & GROUNDS COMMITTEE REPORT - OCTOBER 17, 2006

Mr. Nixon reported that the Building and Grounds Committee met and was forwarding the following recommendation to the full Board:

1. Recommending authorization to advertise for a public hearing to dedicate 0.176 acres to Virginia Department of Highway for the expansion of Route 229 and to grant easement to Verizon to relocate the utilities.

Mr. Nixon moved, seconded by Mr. Walker, to accept the recommendation of the Rules Committee to authorize advertising the dedication of 0.176 acres to VDOT for the expansion of Route 229 and to grant an easement to Verizon to relocate the utilities.

Mr. Nixon stated that Mr. Paul Howard, Environmental Services Director, was present to answer any questions.

There were no questions.

Mr. Chase called the question.

Mr. Coates stated that the Board had not had the benefit of comments made at the Committee meeting regarding this easement. He said there was some dialogue regarding the relocation of the utilities in the ultimate easement location, and he wanted the Board to know that the State would be paying twice to relocate the utilities. Mr. Howard replied that was correct regarding the Verizon easement and when the road was widened, the utilities would be moved again. Mr. Coates said he was advised the reason was because the ultimate plans for four-laning Route 229 were not ready and they were trying to expedite the project.

Mr. Walker asked whether there was anything the Board could do. Mr. Coates stated he wanted to make the point that the utilities would be relocated at some future date.

Mr. Coates stated that Mr. Chase had called the question.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

See Attachment #2 for details of meeting.

ANIMAL SHELTER ADVISORY COMMITTEE REPORT - OCTOBER 24, 2006

Mr. Chase reported that the Animal Shelter Advisory Committee met and discussed the status of the Humane Society and actions to be taken while they were on hiatus. He said a group had been established named "FOCAS" or Friends of the Culpeper Animal Shelter and included some former members of the Humane Society. He said that FOCAS was working with Ms. Jamie Bennett, Animal Services Director, at the Animal Shelter in assisting with the adoption of animals.

Ms. Bennett stated that Culpeper County Shelter staff had adopted more animals than the Humane Society. Mr. Chase thought the figures were approximately 180 versus 40 or 50.

Ms. Bennett reported that her Department had stepped in and taken over the same activities that the Humane Society had been helping with. She said that FOCAS members were coming to the shelter and assisting them in caring for the animals, taking animals out for off-site adoption, fostering animals, and other similar tasks. She noted that the shelter had also started its own low-cost spaying/neutering program.

Mr. Bossio asked Ms. Bennett to report on the recent inspection of the shelter by the

State. Ms. Bennett said the exact response from the inspector was “excellent”.

Mr. Bossio pointed out that nothing prevented the Humane Society from returning when its application was submitted. Ms. Bennett stated that was correct. She said the State law required any entity handling the adoption of animals must send statistics to the State, and the Humane Society had never complied. She said that the Humane Society had started to send in their figures, and once they were back on the State list as a releasing agency, the County could transfer animals to them when the shelter was full.

ECONOMIC DEVELOPMENT REPORT

Mr. Carl Sachs, Economic Development Director, presented an overview of the 2006 Harvest Days Farm Tour held October 6 and 8. He reported that 17 farms participated, and the second highest location visited was the Visitor’s Center downtown, which was good because people had the opportunity to obtain information about Culpeper. He said that in spite of the rain on Saturday, there were approximately 3,400 visits compared with 4,200 the previous year on two nice days. He said the feedback was good, and overall the farm tour was excellent. He provided statistics on where people came from, how visitors heard about the tour, how many farms were visited, how much was spent during the trip, and whether visitors would return next year. He said the goals for this year’s tour were to promote/educate people on the diversity of farms in Culpeper, increase attendance, improve tour organization and improve the overall look and value of the brochure, bookmark and poster. He said all goals were met except for increasing attendance, which had been affected by the weather. He reported the budget was \$15,500, \$850 in donations were received and expenditures to date were \$12,000, thus the farm tour came in under budget. He felt there improvements could be made by providing additional orientation for volunteers and ensuring signs were placed in appropriate locations.

Mr. Sachs acknowledged the presence of Mr. Carl Stafford, Chairman of the Farm Tour Committee, and thanked him and the Chamber of Commerce, Culpeper Renaissance, Farmers’ Tours and the many volunteers who participated and made the farm tour a success.

Mr. Sachs reported that he had begun an initiative to track commercial developments in the County. He said he was working with the Planning and Zoning Department and the Building Official’s Office for information to follow any project from start

to finish, and to offer assistance throughout the process. He stated that Target was scheduled to open ahead of schedule in early March in the Culpeper Colonnade and would be joined by a Staples, Pet Smart and Chevy Chase Bank. He said that 12 stores were about to open in the Centre of Culpeper across Route 29.

Mr. Sachs announced that Mr. Ted Gore would be the luncheon guest today.

Mr. Walker thanked Mr. Sachs for his work on the farm tour.

AIRPORT ADVISORY COMMITTEE REPORT

Mr. Bossio reported that the Airport Advisory Committee did not meet.

ADMINISTRATOR'S REPORT

Mr. Bossio reported that the upcoming 2006-2007 holiday season schedule had been issued by the Governor's Office, and he asked for the Board's consideration and approval. He noted that in the past, the Board had followed the Governor's schedule.

Mr. Walker moved, seconded by Mr. Nixon, to accept the Governor's holiday schedule.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CLOSED SESSION

Mr. Nixon moved, to enter into closed session, as permitted under the following *Virginia Code* Sections and for the following reasons:

1. Under *Virginia Code* §2.2-3711(A)(1), to consider: (A) An appointment to the Town & County Joint Board of Zoning Appeals; (B) Readvertising for an appointment to the Agricultural Resource Advisory Committee; (C) Selection of a supervisor to be on the Culpeper Cable Commission; and (D) Evaluation of a specific County employee.
2. Under *Virginia Code* §2.2-3711(A)(3) & (A)(7), for discussion with legal counsel and staff concerning disposition of specific real property located in the Air Park where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County.
3. Under *Virginia Code* §2.2-3711(A)(7), for discussion with legal counsel and staff regarding probable litigation concerning changes in ordinances where discussion in an open meeting would adversely affect the negotiating and litigation posture of the County.

4. Under *Virginia Code* §2.2-3711(A)(7), for discussion with legal counsel and staff regarding threatened litigation against a specific County agency, where discussion in an open meeting would adversely affect the negotiating and litigation posture of the County.
5. Under *Virginia Code* §2.2-3711(A)(7), for discussion with legal counsel and staff regarding the relief alternatives for the proper resolution of pending litigation against the County, where discussion in an open meeting would adversely affect the negotiating and litigation posture of the County.
6. Under *Virginia Code* §2.2-3711(A)(7) & (A)(30), for discussion with legal counsel and staff regarding changing contractors for a specific County function where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the County.
7. Under *Virginia Code* §2.2-3711(A)(7) & (A)(30), for discussion with legal counsel and staff regarding the scope and terms of a proposed four-party water system contract.

Seconded by Mrs. Hansohn.

Mr. Coates called for voice vote.

Ayes – Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Nay – Chase

Motion carried 6 to 1.

The Board entered into closed session at 12:35 p.m.

Mr. Coates recessed the closed session at 1:30 for lunch.

The Board returned to closed session at 2:45 p.m.

Mr. Coates polled the members of the Board regarding the closed session held. He asked the individual Board members to certify that to the best of their knowledge, did they certify that (1) only public business matters lawfully exempted from the open meeting requirements under Virginia Freedom of Information Act, and (2) only such public business matters as were identified in the closed session motion by which the closed meeting was convened, were heard, discussed or considered by the Board in the closed session.

Mr. Coates asked that the record show that Mr. Chase was not present for the closed session.

Ayes - Aylor, Walker, Coates, Nixon, Rosenberger, Hansohn

RE: JOINT BOARD OF ZONING APPEALS

Mr. Nixon moved, seconded by Mrs. Hansohn, to recommend the appointment of Michael G. Jolly to the Joint Board of Zoning Appeals.

Mr. Coates called for voice vote.

Ayes – Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Absent – Chase

Motion carried 6 to 0.

RE: READVERTISE VACANCY ON AGRICULTURAL RESOURCE ADVISORY COMMITTEE

Mr. Nixon moved, seconded by Mrs. Hansohn, to readvertise the vacancy on the Agricultural Resource Advisory Committee.

Mr. Coates called for voice vote.

Ayes – Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Absent – Chase

Motion carried 6 to 0.

RE: APPOINTMENT TO CABLE COMMISSION

Mr. Nixon moved, seconded by Mr. Aylor, to appoint Steve Nixon to the Culpeper Cable Commission as the Board representative and appoint Sue Hansohn as an alternate in his absence.

Mr. Coates called for voice vote.

Ayes – Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Absent – Chase

Motion carried 6 to 0.

RE: LAKE RIDGE RESOLUTION

Mr. Nixon moved, seconded by Mr. Aylor, to reconsider and to vacate the Lake Ridge Resolution approved by the Board on August 1, 2006.

Mr. Coates called for voice vote.

Ayes – Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Absent – Chase

Motion carried 6 to 0.

RE: LAKE RIDGE NEW RESOLUTION

Mr. Nixon moved, seconded by Mr. Walker, to approve the new Lake Ridge Resolution, which has two paragraphs resolved, the second of which makes the resolution conditional upon execution of the four-party agreement.

Mr. Coates called for voice vote.

Ayes – Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Absent – Chase

Motion carried 6 to 0.

ADJOURNMENT

Mrs. Hansohn moved to adjourn at 4:32 p.m.

Peggy S. Crane, CMC
Deputy Clerk

John F. Coates, Chairman

Frank T. Bossio,
Clerk to the Board

APPROVED: December 5, 2006